

## Yackulic, Ted

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**From:** Yackulic, Ted  
**Sent:** Monday, January 27, 2014 11:14 AM  
**To:** Feldman, Stephen (Perkins Coie)  
**Cc:** Villa, Clifford; Rich, Christopher W. (Perkins Coie); Frederick.Phillips@USDOJ.GOV; Mackey, Cyndy  
**Subject:** RE: Absorbent Technologies, Inc.: Queen Avenue and Ferry Street Properties

Got it. I'll call you if we have any questions and will get back to you as soon as we have a response.

Ted Yackulic, Assistant Regional Counsel  
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**From:** Feldman, Stephen (Perkins Coie) [<mailto:SFeldman@perkinscoie.com>]  
**Sent:** Monday, January 27, 2014 10:55 AM  
**To:** Yackulic, Ted  
**Cc:** Villa, Clifford; Rich, Christopher W. (Perkins Coie)  
**Subject:** Absorbent Technologies, Inc.: Queen Avenue and Ferry Street Properties  
**Importance:** High

Ted,

Following up on our recent discussions, I am writing to set forth a proposal regarding the resolution of EPA's claims against both our client (i.e., the owner of the Queen Avenue property) and the owner of the Ferry Street property. The specific proposal is to enter into an agreement with EPA as follows:

1. An EPA escrow account will be set up by no later than January 30, 2014;
2. EPA will remove its lien from the Queen Avenue property by no later than January 30, 2014;
3. Upon closing of the sale of the Queen Avenue property on January 31, 2014, \$100,000 will be deposited into the EPA escrow account;
4. By no later than January 30, 2014, EPA will be given written assurance by the Trustee of the bankruptcy estate of Absorbent Technologies, Inc. ("ATI") that another \$100,000 will be deposited into the EPA escrow account as soon as possible upon distribution of the assets of the estate;

5. Upon distribution to EPA of the \$200,000 from the escrow account, EPA will simultaneously execute and provide the owners of the Queen Avenue property and the Ferry Street property with a settlement agreement confirming that their respective potential liability to EPA in connection with the ATI matter has been fully resolved; and
6. Upon distribution to EPA of the \$200,000 from the escrow account, EPA will also remove any lien that it may have on the Ferry Street property.

Please allow me to add a brief explanation as to why we believe that the above proposal is a fair and appropriate resolution of this matter.

First, and as you know, neither the owner of the Queen Avenue property nor the owner of the Ferry Street property were actively engaged in the activities that led to the EPA's involvement with this matter. Rather, and quite honestly, the owners of the Queen Avenue property and the Ferry Street property were left to deal with the aftermath of the inappropriate acts or omissions of others (namely, ATI and potentially Water Conservation Technologies, Inc. and the respective managers of these companies – which includes parties with whom the owners of the Queen Avenue and Ferry Street properties were not in contractual privity).

Second, notwithstanding the fact that the owners of the Queen Avenue property and the Ferry Street property were not the bad actors here, they not only have been left with substantial alleged liability to EPA, but also substantial potential liability to others. Specifically, and among other things, both owners are facing demands for payment of invoices for environmental remediation by River City Environmental, Inc. ("River City"), with the owner of the Queen Avenue property having received an invoice from River City in excess of \$368,000. (I am not certain of the amount of the River City invoice that the owner of the Ferry Street property received.) In addition, both owners have had to address the issue of ATI's considerable tax liability to Linn County. And, furthermore, other costs involving environmental remediation (estimated at \$150,000) will likely be incurred when existing equipment is removed from the Queen Avenue property.

Third, absent a resolution along the lines of the foregoing proposal, the owners of the Queen Avenue property and the Ferry Street property will have an incentive to challenge their potential liability to EPA as well as the amount of any such liability. This obviously will delay EPA's collection of any funds and may result in EPA ultimately collecting less than the \$200,000 now being proposed (especially considering the transaction costs and the fact that any future action(s) will certainly include multiple parties).

Finally, with regard to the issue of timing, it is critical, as we previously have explained, that EPA remove its lien from the Queen Avenue property in advance of the scheduled closing on January 31, 2014. Absent this happening, it is almost certain that the anticipated sale will not go forward. And that, in turn, may result in the owner of the Queen Avenue property losing all value in the property, which obviously will substantially impact EPA's ability to collect on any amount that it might eventually be awarded.

We respectfully ask that you please carefully consider this proposal and get back to us as quickly as possible. We cannot emphasize enough that time is of the essence.

Please do not hesitate to call me with any questions that you may have.

Best,  
Stephen

**Stephen M. Feldman | Perkins Coie LLP**

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